

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

ROY D. MORAGA,

Plaintiff

Case No. 3:19-cv-00635-MMD-CLB

ORDER

v.

DR. ALLEY, et al.,

Defendants

I. DISCUSSION

Plaintiff, who is an inmate in the custody of the Nevada Department of Corrections (“NDOC”), has filed a motion for leave to file a supplemental brief. (ECF No. 5.) The motion includes several factual allegations and claims not included in Plaintiff’s complaint and appears to be an attempt to supplement the complaint. (*Id.*) The Court will not piecemeal Plaintiff’s complaint together from multiple filings. Plaintiff’s operative complaint must contain all claims, defendants, and factual allegations that Plaintiff wishes to pursue in this lawsuit. As such, the Court denies Plaintiff’s motion and grants Plaintiff leave to file a fully complete first amended complaint within 30 days. If Plaintiff does not file a fully complete amended complaint, the court will screen his complaint (ECF No. 1-1) and will not consider any allegations in Plaintiff’s motion for leave to file a supplemental brief.

If Plaintiff chooses to file a first amended complaint, he is advised that a first amended complaint supersedes (replaces) the original complaint and, thus, the first amended complaint must be complete in itself. See *Hal Roach Studios, Inc. v. Richard Feiner & Co., Inc.*, 896 F.2d 1542, 1546 (9th Cir. 1989) (holding that “[t]he fact that a party was named in the original complaint is irrelevant; an amended pleading supersedes the original”); see also *Lacey v. Maricopa Cnty.*, 693 F.3d 896, 928 (9th Cir. 2012) (holding that for claims dismissed with prejudice, a plaintiff is not required to reallege such claims in a subsequent amended complaint to preserve them for appeal). Plaintiff’s first

1 amended complaint must contain all claims, defendants, and factual allegations that
2 Plaintiff wishes to pursue in this lawsuit. Moreover, Plaintiff must file the first amended
3 complaint on this Court's approved prisoner civil rights form, and it must be entitled "First
4 Amended Complaint."

5 **II. CONCLUSION**


6 For the foregoing reasons, IT IS ORDERED that Plaintiff's motion for leave to file
7 a supplemental brief (ECF No. 5) is denied.

8 IT IS FURTHER ORDERED that, if Plaintiff chooses to file a first amended
9 complaint, Plaintiff will file the first amended complaint within 30 days from the date of
10 entry of this order.

11 IT IS FURTHER ORDERED that the Clerk of the Court will send to Plaintiff the
12 approved form for filing a § 1983 complaint, instructions for the same, and a copy of his
13 complaint and his motion for leave to file a supplemental brief (ECF Nos. 1-1, 5). If
14 Plaintiff chooses to file a first amended complaint, he must use the approved form and he
15 will write the words "First Amended" above the words "Civil Rights Complaint" in the
16 caption.

17 IT IS FURTHER ORDERED that, if Plaintiff does not timely file a first amended
18 complaint, the Court will screen the original complaint (ECF No. 1-1) only and strike
19 Plaintiff's motion for leave to file a supplemental brief (ECF No. 5) from the docket.

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21 DATED THIS 20th day of May 2020.

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24 UNITED STATES MAGISTRATE JUDGE
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